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GHARAR IN SHARIA FINANCIAL PRODUCTS: FORMS, IMPLICATIONS, AND PREVENTION MEASURES

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Abstract

This article examines the concept of *gharar* (uncertainty) in Islamic financial products, focusing on its forms, impact on contract validity, and preventive measures grounded in Islamic law. Employing a qualitative-descriptive approach through a literature study method, the research draws on classical and contemporary Islamic jurisprudence, fatwas from the National Sharia Council (DSN-MUI), and practical applications within Islamic financial institutions. The findings categorize *gharar* into two types: *gharar yasir* (minor uncertainty), which is tolerated, and *gharar kabīr* (major uncertainty), which is prohibited due to its potential to invalidate contracts. Common manifestations of *gharar* in modern financial transactions include ambiguous contract terms, fluctuating pricing, uncertain delivery times, and vague descriptions of goods. These elements can compromise contractual fairness and transparency, undermining the foundational principles of Islamic finance. To mitigate *gharar*, Islamic financial institutions implement transparent contract structures, utilize Sharia-compliant contracts such as *murābaḥah*, *ijārah*, and *muḍārabah*, and operate under the oversight of Sharia Supervisory Boards (DPS). Practical implementations in Islamic banking and fintech sectors demonstrate how *gharar* can be effectively minimized, reinforcing both prudence and adherence to Sharia principles.

Keywords: Gharar; Islamic Finance; Contract Uncertainty; Sharia Compliance; Financial Risk

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INTRODUCTION

Transactions in the Islamic financial system must comply with the basic principles set out in Islamic law, such as justice, transparency, and legal certainty (Marzuki, 2024). One element expressly prohibited in transactions is *gharar*, which is any form of uncertainty or ambiguity in a contract that could result in loss for one of the parties. *Gharar* often arises unnoticed in both conventional and digital transactions, particularly in Islamic financial products such as financing, investment, and insurance (Maulidizen et al., 2025). Therefore, identification and mitigation of *gharar* are very important to ensure compliance with Sharia principles and maintain trust in the Islamic economic system.

The problem of *gharar* in Islamic law arises because it contains elements of uncertainty and ambiguity in transactions that have the potential to cause losses and injustice to one of the parties. *Gharar* can occur in the quantity, quality, price, or time of delivery of goods or services being traded, thereby eliminating the elements of justice and mutual consent in the contract. This uncertainty not only causes disputes and distrust in transactions but is also considered an unlawful taking of property, which is prohibited by Allah SWT in QS Al-Baqarah:188 (Kemenag RI, 2019). In modern practice, *gharar* is often difficult to avoid, especially in digital transactions and Islamic financial products such as financing, investment, and insurance, thus requiring appropriate risk mitigation mechanisms to ensure that contracts remain compliant with Islamic principles. Furthermore, differing interpretations of the level of uncertainty that is tolerable add to the complexity of implementing *gharar* law, requiring a deep understanding from actors and regulators to prevent losses and injustice in the Islamic economy (Kusuma et al., 2024).

In the modern context, *gharar* appears in various forms, such as the object of the transaction not being available, the price being uncertain, the time of delivery being unclear, or the nature of the goods being ambiguous (Nurinayah, 2023). This phenomenon raises serious issues because it can invalidate the validity of contracts under Islamic law. Conceptually, scholars divide *gharar* into two main categories: mild *gharar*, which is tolerated because it does not affect the substance of the contract, and severe *gharar*, which is prohibited because it contains elements of fraud and high speculation. This classification is important for assessing whether a transaction is considered valid or invalid (Ridwan, 2022). In practice, *gharar kabir* can be found in digital business models such as pre-orders without collateral,

investment contracts without clear profit sharing, or financing contracts with prices that change depending on the time and payment method.

Several studies have shed light on *gharar*. The concept of *gharar* in Islamic law is a crucial principle that prohibits all forms of uncertainty, speculation, and fraud in economic transactions. Some literature explains that *gharar* is an element of uncertainty regarding the object, price, or time of delivery in a contract, potentially harming one of the parties and contradicting the principles of justice and transparency prioritized in Islam (Azzahra et al., 2024; Mustaqimah, 2025). Classical scholars such as Imam al-Qarafi, Ibn Taymiyah, and Ibn Qayyim define *gharar* as a contract whose consequences cannot be ascertained, such as selling fish in the water or birds in the air, so that this kind of transaction is prohibited by the *Shari'a* (Nurjanah et al., 2024). The prohibition of *gharar* is based on the verses of the Qur'an and the hadith of the Prophet Muhammad SAW which emphasize the importance of justice and clarity in transactions, as well as preventing the unlawful taking of other people's rights (Nurinayah, 2023). In general, all literature agrees that large *gharar* (*gharar fahisy*) must be avoided because it can cause conflict, loss, and damage trust in the sharia economic system, while small *gharar* (*gharar yasir*), which is difficult to avoid in everyday life, is still tolerated as long as it does not cause real injustice (Maarif, 2024).

This study aims to comprehensively analyze the concept of *gharar* in Islamic financial products, encompassing various forms of *gharar*, its different levels according to Islamic jurisprudence (*fiqh muamalah*), its impact on the validity of contracts, and the prevention strategies implemented by Islamic financial institutions to ensure compliance with Islamic principles. This research uses a descriptive-qualitative approach with a literature review method. It refers to fatwas from the National Sharia Council (DSN-MUI), classical and contemporary Islamic jurisprudence literature, and real-world examples from Islamic banking and fintech. This study is expected to contribute to strengthening the understanding and practice of Islamic finance that is free from *gharar*.

METHODS

This research uses a qualitative approach with a library research method (Rukin, 2019). This design was chosen because the topic discussed is normative-conceptual, rooted in the study of classical Islamic texts (*turats*) and contemporary practices in the Islamic financial system. The main focus of this study is to examine in depth the definition, forms,

and classification of *gharar* from an Islamic legal perspective, as well as to explore how *gharar* is implemented and prevented in contemporary Islamic financial products.

The primary data sources used include classical fiqh literature such as the works of Imam Nawawi, Ibn Qayyim, and Imam Syafi'i, as well as contemporary works by Adiwarman A. Karim, Wahbah az-Zuhaili, and M. Syafi'i Antonio. Additionally, scientific journal articles, DSN-MUI fatwas, OJK regulations, and documents from Islamic financial institutions are also used as secondary data sources to support the contextual analysis (Takhim & Purwanto, 2018).

Data analysis was conducted descriptively and analytically by exploring the relationship between various forms of *gharar*, their classification of levels of danger, and their impact on the validity of contracts in Islamic financial products. The researchers also presented examples of real-life implementations from Islamic banking and fintech institutions in Indonesia to strengthen understanding of the *gharar* prevention strategies that have been implemented. Data validity was strengthened through a source triangulation approach, namely by comparing Islamic jurisprudence literature, official fatwas, and actual practices in the field. This method is expected to provide a comprehensive understanding, not only from a theoretical-normative perspective, but also from an applied perspective, thus contributing scientifically to the development of Islamic finance that is free from *gharar* elements.

RESULTS

Understanding *Gharar* and Its Forms

Etymologically, *gharar* means uncertainty, deception, or an action that has the potential to harm another party in a transaction. A contract is considered to contain elements of *gharar* if it lacks sufficient clarity regarding the object's existence, quantity, or delivery process, thus creating a risk for one of the parties (Affero & Mustofa, 2024). The basic law of *Gharar* is as stated by Allah SWT, as stated in Q.S. Al-Māidah: 90, "O you who believe! Indeed, wine, gambling, (sacrificing to) idols, and drawing lots of fortunes with arrows are abominable acts, including those of Satan. So stay away from these (acts) so that you will be lucky" (Kementerian Agama RI, 2013).

This verse serves as an important basis for prohibiting all forms of transactions that contain speculative and uncertain elements, including *gharar*. Allah SWT expressly prohibits practices such as *maysir* (gambling) and *azlām* (lottery with arrows), which involve uncertain outcomes and rely on chance. Although this verse does not explicitly mention the word "*gharar*," scholars understand it as the basis for prohibiting any form of transaction that creates uncertainty, injustice, and loss for one of the parties (Chowdhury, 2015). *Gharar* in sales contracts, insurance, or speculative investments is essentially similar to maysir, namely, both involve uncertain outcomes and bets on non-transparent risks. Therefore, the prohibition of *gharar* is seen as an effort by Sharia to close the door to corruption (*sadd al-dzari'ah*) and ensure justice and legal certainty in transactions.

According to Imam Nawawi, *gharar* is an element in a contract that is prohibited in Islam because it contains uncertainty regarding the success of the contract, such as in the example of buying and selling fish that are still in a pond, where the results are uncertain. In general, *gharar* refers to the ambiguity or uncertainty that arises due to a lack of clarity regarding the object of the contract or the agreed price, thus potentially causing losses to one of the parties and violating the principle of justice in *muamalah* (Suwailem, 2017).

In this case, several scholars provide the following definitions: First, Imam Syafi'i explains that *gharar* is something whose consequences are hidden and has the potential to produce undesirable impacts. Second, Wahbah al-Zuhaili interprets *gharar* as something that at first seems profitable, but in essence contains the potential for loss or evil. Third, Ibn Qayyim stated that *gharar* is something whose value and existence cannot be measured with certainty, such as selling runaway slaves or wild camels (Mahdinur, 2022).

1. Types of *Gharar*

In modern *muamalah* transactions, the element of *gharar* is still frequently encountered, although its forms have changed with advances in technology and business models. Some common forms of *gharar* are as follows:

a. Transactions for Goods Not Under the Seller's Control

This type of *gharar* arises when the goods being traded are not under the seller's direct control at the time of the contract. Even though the buyer and seller have agreed on the object and type of goods, the seller cannot guarantee the delivery time. For example, a seller on a marketplace platform offers a smartphone. However, after payment is made, it turns out the item is still in the hands of another person or has even been lost because it has not

been shipped from the distributor's warehouse. This seller's inability to deliver the goods on time is an element of *gharar* (Mubarak, 2023).

b. Transactions for Items Not Yet Available

In this model, the object of the transaction does not yet exist at the time the contract is made, creating uncertainty regarding its future existence and availability. Examples include pre-ordering a new electronic product that has not yet been mass-produced, or selling an NFT (Non-Fungible Token) for a digital work still in the development process. Risk arises when there is no certainty that the item or product will be available and match the description. However, if the ordered item is already confirmed, such as a pre-order from an authorized supplier with a clear procurement contract, then this does not constitute *gharar*. (Tektona & Putra, 2021).

c. Transactions with Uncertain Prices

Gharar can also occur when the price of goods is not precisely specified in the contract, but instead fluctuates depending on the payment terms or the transaction time. In the digital context, cryptocurrency-based transactions such as Bitcoin or Litecoin also contain elements of *gharar* because they lack a clear underlying asset and their prices are highly volatile and speculative. This element renders these transactions non-compliant with the principle of prudence in Sharia (Walidaini R, 2024). For example, a product sells for Rp1,500,000 if paid in cash today, but becomes Rp1,700,000 if purchased tomorrow, and Rp1,900,000 if paid in installments over three months. Uncertainty about the final price of an item creates an element of *gharar* because there is no clear price agreed upon from the start. In Islamic economics, every form of transaction must include a fixed and clear price at the time of the contract.

d. Transactions on Goods of Unknown Nature

This type of *gharar* arises when the characteristics or quality of the item being sold are not described in detail, thus creating uncertainty. For instance, selling clothing online with a description like "premium and comfortable material" without specifying the fabric type, size, or color. Buyers risk disappointment because the item they receive does not meet their expectations. Similarly, selling homemade food online without information about the production date, ingredients, or nutritional information. This ambiguity can lead to doubts about the quality of the goods, which falls under the category of *gharar* (Setyowati, 2021).

DISCUSSION

The Difference Between Permissible *Gharar* (*Yasīr*) and Prohibited *Gharar* (*Kabīr*)

In the study of Islamic jurisprudence (fiqh) in transactions, scholars distinguish *gharar* based on the degree to which it affects the validity of a contract. Not all forms of *gharar* automatically invalidate a transaction; some are tolerated if they are considered minor and do not cause significant harm.

1. Permissible *Gharar* (*Gharar Yasīr*)

Gharar yasīr refers to minor or light uncertainty that does not significantly impact the transaction. This type of *gharar* is considered normal and common in everyday life. An example is buying clothes at a traditional market without knowing the exact brand or type of fabric. As long as this element of uncertainty does not cause any real loss or injustice, the contract remains valid and permissible under Sharia. This type of *gharar* does not undermine the structure of the contract because it does not significantly affect the substance or outcome of the transaction (Syahruddin, 2022).

2. Forbidden *Gharar* (*Gharar Kabīr*)

It is different from *gharar kabir*, which is a form of uncertainty that is considered severe or substantial. This form of *gharar* can cause uncertainty regarding the object or outcome of the transaction as a whole. It usually contains a high element of speculation and has the potential to cause loss or fraud. Examples of *gharar kabir* include the sale and purchase of goods whose existence is uncertain or whose existence cannot be ascertained, such as an animal fetus still in its mother's womb, a fish in the ocean that has not yet been caught, or fruit that has not yet appeared on a tree. Because it violates the principles of transparency and justice, this form of *gharar* is strictly prohibited by sharia, and contracts containing *gharar kabir* are voidable (Syarqawie, 2025).

Implications of *Gharar* in Business and Investment Contracts

After understanding the forms and classifications of *gharar* based on their levels, it is important to explore how this uncertainty impacts the world of business and investment. From an Islamic legal perspective, *gharar* is an element that must be avoided because it can violate the principles of justice and certainty in contracts.

In modern business practices, *gharar* can manifest itself in various forms. One example is the lack of clarity regarding the object of the transaction. For example, someone

might sell a house that is still under construction without clear details regarding the location, size, or construction materials to be used. This situation can lead to disputes because the buyer lacks concrete information regarding the actual object of the contract (Fahreza, 2024).

Gharar can also be found in pricing or payment methods. If the price of an item is not stated explicitly at the time of the contract, or if the payment scheme is dependent on factors that are not clearly stated (for example, following exchange rate fluctuations or investment performance), this can cause one party to feel disadvantaged.

Furthermore, uncertainty regarding the timing or mechanism of delivery of goods or the distribution of investment returns is also a relevant form of *gharar* in the contemporary era. An example is an investment agreement that does not specify when the returns will be distributed, who bears the risk of loss, or how the funds will be managed. This ambiguity opens the door to conflict between investors and fund managers and contradicts the principle of transparency in transactions (Ridwan, 2022).

Islamic law strictly prohibits serious *gharar* (*gharar* kabir) because it can harm one of the parties to a contract. If the *gharar* element is deemed dominant and influences the substance of the agreement, the agreement can be considered as flawed under Sharia law and even potentially void. In addition to its sharia legal consequences, *gharar* can also have economic implications, such as disrupting an institution's liquidity or fostering public distrust of financial institutions. It occurs when contracts are not drafted transparently, creating uncertainty about the rights and obligations of each party. Therefore, the presence of *gharar* in business and investment contracts not only has theoretical implications but also carries significant legal consequences in the context of Sharia economic practices (Hasanah, 2024).

Efforts to Avoid *Gharar* in Islamic Financial Products

In the Islamic economic system, all transactions must be based on the principles of justice, certainty, and transparency. Therefore, elements of *gharar*, which involve uncertainty or excessive speculation, are strictly prohibited. To prevent *gharar* in modern financial practices, particularly in Islamic banking and investment products, systematic efforts are required that address both the technical and structural aspects of the contract. Islamic financial institutions can minimize the risk of contract uncertainty (*gharar*) in murabahah financing by implementing the principles of transparency, fixed pricing, and clear documentation within the contract (Malik et al., 2025). One of the most fundamental and

comprehensive efforts is the application of the principles of transparency and clarity in contracts.

1. Transparency and Clarity of Contracts: The Ultimate Solution for All Types of *Gharar*

This principle requires that every transaction be designed with transparency of information in mind from the outset. All important elements of the contract—such as the object of the transaction, price, payment method, time of delivery, and the rights and obligations of the parties—must be explained in writing. Direct application of this principle can avoid various common forms of *gharar*, including:

a. *Gharar* because the object has not been controlled or does not yet exist

It is similar to the sale of a house that is still in the planning stage or a pre-order item with an uncertain delivery schedule. With a transparent contract, the seller is required to include complete information about the property's specifications, location, ownership status, and delivery time.

b. *Gharar* due to price ambiguity

In many cases, consumers are faced with fluctuating prices depending on the time or payment method. Price transparency, outlined in a written contract and agreed upon from the outset, will prevent this type of *gharar*.

c. *Gharar* due to the unknown nature of goods

It includes, for example, purchasing goods online without adequate descriptions. This practice can be avoided by requiring sellers to include detailed specifications, images, warranties, and product quality information before the contract is executed.

d. *Gharar* in the transfer or distribution of proceeds

In investment contracts, the risk of *gharar* arises when there is no clarity on when the return will be received and how the risk will be shared. With a clear contract, Islamic banks or financial institutions include profit-sharing schemes, payment timing, and risk management from the outset.

2. Use of Prescribed Contracts: Strengthening Contract Structures

In addition to the technical aspects of transparency, the form of contract used must also comply with those permitted in Islamic jurisprudence. Some contracts frequently used in Islamic financial institutions are: *Murabahah*: Buying and selling with an agreed margin, *Ijarah*: Rental agreement, *Mudharabah*: Business cooperation between the capital owner and the manager, *Musyarakah*: Cooperation between two or more parties that includes joint capital. These contracts have a clear legal framework and are regulated in detail in the *fiqh*

literature, thus minimizing the opportunity for *gharar* to occur, especially in the aspect of managing rights and obligations.

3. The Role of the Sharia Supervisory Board (SSB): Ethical and Legal Filter

The Sharia Supervisory Board (SSB) plays a vital role in ensuring that every Islamic financial product adheres to Sharia principles, including anticipating the presence of *gharar* elements. The SSB is tasked with reviewing draft contracts and product documents before launch, identifying potential ambiguities or doubts, and issuing fatwas or corrections to products deemed to violate Sharia principles. Through this mechanism, the potential for *gharar* that may be hidden in contracts or service technicalities can be prevented from the outset (Rasikhah, 2025).

Some concrete practices to avoid *gharar* include: first, BSI in the *murabahah* contract explains in writing the profit margin, acquisition price, and installment scheme to customers; second, ALAMI Sharia as a sharia fintech platform includes details of the digital contract, including the type of goods, price, and margin in the financing transaction; third, *Takaful Keluarga* transparently explains the portion of *tabarru'* funds, management fees, and claim provisions in the sharia insurance policy.

By emphasizing the principles of transparency and clarity in every contract and strengthening the transaction structure through valid sharia contracts and oversight by official institutions, the Islamic financial system can effectively avoid various forms of *gharar*. It not only ensures compliance with Islamic law but also builds public trust in Islamic finance as a fair, secure, and fraud-free system.

CONCLUSION

This study concludes that *gharar*, as uncertainty in contracts, is fundamentally prohibited in Islamic finance due to its potential to cause injustice and disputes. The analysis reveals that *gharar* is categorized into two types: mild and tolerable *gharar yasir*, and severe *gharar kabir*, which renders the contract invalid. Forms of *gharar* in contemporary financial products include object ambiguity, non-transparent price fluctuations, uncertainty about delivery times, and a lack of information. The implications of *gharar* are significant because they can undermine the integrity of the contract and the goals of justice and legal certainty. Therefore, preventing *gharar* is crucial through transparency, the use of appropriate Islamic contracts such as *murabahah, mudharabah*, and *ijarah*, and supervision by the Sharia Supervisory

Board (DPS). The practices of Islamic banking and fintech institutions in Indonesia demonstrate the effectiveness of *gharar* mitigation strategies. However, this study's limitations lie in its qualitative, literature-based approach that lacks in-depth field data. Therefore, future research is recommended to focus on empirical analysis of the effectiveness of anti-*gharar* principles and regulatory evaluation in the Islamic finance industry.

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